S.B.CRIMINAL MISC. BAIL APPLICATION NO.4862/2007
(Gulam Mustafa vs. State of Rajasthan)

DATE OF ORDER : October 22, 2007

HON'BLE MR.H.R.PANWAR,J.

Mr.B.S.Rathore, for the petitioner.
Mr.Ashok Upadhyaya, Public Prosecutor for State.
Mr.S.G.Ojha, for the complainant.

Heard learned counsel for the petitioner and the Public Prosecutor for the State assisted by counsel for the complainant. Perused the order impugned and the police investigation diary.

It is contended by the learned counsel for the petitioner that initially a report was lodged by the complainant for which the police investigated the matter and filed the challan for the offences under sections 498-A and 323 I.P.C. and the petitioner is facing trial for those offences. There had not been any averment that any of her "Stridhan" was entrusted to the petitioner or the petitioner declined to return the same. However, subsequently, an FIR for the offence under section 406 I.P.C. has been filed on the ground that the Magistrate did not take the cognizance of the offence under section 406 I.P.C. Initially it was not the case of the complainant that her dowry articles have not been returned by the petitioner.

Be that as it may, without commenting on the merit of the case, having regard to the facts and circumstances of the case

and, I consider it just and proper to grant anticipatory bail to the petitioner.

Accordingly, the bail application filed by the petitioner under section 438 Cr.P.C. is allowed and it is directed that in the event of arrest of petitioner Gulam Mustafa s/o Mahardeen in FIR No.84/2007, Police Station, Mahila Thana, Bikaner, he shall be released on bail for a period till the police concludes the investigation and files the challan provided he furnishes a personal bond in the sum of Rs.10,000/- along with one surety of like amount to the satisfaction of Investigating Officer to surrender and appear before the trial court on the date of filing of the challan after conclusion of the investigation on the following conditions:-

(i)That he shall make himself available for interrogation by a police officer as and when required;

(ii)That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer and;

(iii)That he shall not leave India without the previous permission of the Court.

The petitioner shall surrender before the trial court on the date of filing of the challan.

(H.R.PANWAR),J.

m.asif/-